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Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2017

DARREN G. DYE  
4847 Harrison Street  
Chino, California 91710

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

Respiratory Care Practitioner License No. 23663

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
above-entitled proceedings that the following matters are true:

**PARTIES**

1. Stephanie Nunez (Complainant) is the Executive Officer of the  
Respiratory Care Board of California (Board). She brought this action solely in her official  
capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of  
California, by Elaine Gyurko, Senior Legal Analyst.

2. Darren G. Dye (Respondent) is represented in this proceeding by Fredrick  
M. Ray, Attorney at Law, whose address is 770 The City Drive, Suite 8100, Orange, California  
92868.

3. On or about June 25, 2004, the Board issued Respiratory Care Practitioner  
License No. 23663 to Respondent. This license was in full force and effect at all times relevant

1 to the charges brought herein and will expire on January 31, 2007, unless renewed.

2 JURISDICTION

3 4. Accusation No. R-2017 was filed before the Board and is currently  
4 pending against Respondent. The Accusation and all other statutorily required documents were  
5 properly served on Respondent on March 2, 2006. Respondent filed his Notice of Defense  
6 contesting the Accusation. A copy of Accusation No. R-2017 is attached as Exhibit 1 and  
7 incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and  
10 understands the charges and allegations in Accusation No. R-2017. Respondent has also  
11 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
12 Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
16 the right to present evidence and to testify on his own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No.  
24 R-2017, if proven at a hearing, constitute cause for imposing discipline upon his Respiratory  
25 Care Practitioner License.

26 9. For the purpose of resolving the Accusation without the expense and  
27 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
28 present a factual basis for the charges in the Accusation, and that Respondent hereby gives up his

1 right to contest those charges. Respondent agrees that his Respiratory Care Practitioner License  
2 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set  
3 forth in the Disciplinary Order below.

#### 4 CONTINGENCY

5 10. This stipulation shall be subject to approval by the Respiratory Care  
6 Board. Respondent understands and agrees that the Board's staff and counsel for Complainant  
7 may communicate directly with the Board regarding this stipulation and settlement, without  
8 notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent  
9 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
10 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
11 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force  
12 or effect, except for this paragraph, it shall be inadmissible in any legal action between the  
13 parties, and the Board shall not be disqualified from further action by having considered this  
14 matter.

15 11. The parties understand and agree that facsimile copies of this Stipulated  
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
17 force and effect as the originals.

18 12. In consideration of the foregoing admissions and stipulations, the parties  
19 agree that the Board may, without further notice or formal proceeding, issue and enter the  
20 following Disciplinary Order:

#### 21 DISCIPLINARY ORDER

22 IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 23663  
23 issued to Respondent Darren G. Dye is revoked. However, the revocation is stayed and  
24 Respondent is placed on probation for three (3) years from the effective date of this decision on  
25 the following terms and conditions.

26 1. WORK SCHEDULES Respondent shall be required to submit to the  
27 probation monitor work schedules on a weekly/monthly basis for the length of probation.  
28 Respondent shall ensure the Board probation monitor has a copy of his current work schedule at

1 all times for each place of employment.

2 Failure to submit current work schedules on a continuous basis shall constitute a  
3 violation of probation and shall result in the filing of an accusation and/or a petition to revoke  
4 probation against Respondent's respiratory care practitioner license.

5 2. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall  
6 participate in random testing, including, but not limited to, biological fluid testing (i.e. urine,  
7 blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the  
8 Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire  
9 probation period. The frequency and location of testing will be determined by the Board.

10 At all times, Respondent shall fully cooperate with the Board or any of its  
11 representatives, and shall, when directed, submit to such tests and samples for the detection of  
12 alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances.

13 If Respondent is unable to provide a specimen in a reasonable amount of time  
14 from the request, while at the work site, Respondent understands that any Board representative  
15 may request from the supervisor, manager or director on duty to observe Respondent in a manner  
16 that does not interrupt or jeopardize patient care in any manner until such time Respondent  
17 provides a specimen acceptable to the Board.

18 Failure to submit to testing, or to appear as requested by any Board representative  
19 for testing, as directed, shall constitute a violation of probation and shall result in the filing of an  
20 accusation and/or a petition to revoke probation against Respondent's respiratory care  
21 practitioner license.

22 3. ABSTENTION FROM USE OF DRUGS AND ALCOHOL Respondent  
23 shall completely abstain from the possession or use of alcohol, controlled substances, dangerous  
24 drugs, and any and all other mood altering drugs, substances and their associated paraphernalia,  
25 except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented  
26 medical treatment.

27 Respondent shall execute a release authorizing the release of pharmacy and  
28 prescribing records as well as physical and mental health records. Respondent shall also provide

1 information of treating physicians, counselors or any other treating professionals as requested by  
2 the Board.

3 Respondent shall ensure that he is not in the presence of or in the same physical  
4 location as individuals who are using illegal substances, even if Respondent is not personally  
5 ingesting the drug(s).

6 Any positive result that registers over the established laboratory cutoff level shall  
7 constitute a violation of probation and shall result in the filing of an accusation and/or a petition  
8 to revoke probation against Respondent's respiratory care practitioner license.

9 Respondent also understands and agrees that any positive result that registers over  
10 the established laboratory cutoff level shall be reported to each of Respondent's employers.

11 4. ALCOHOLICS ANONYMOUS/ NARCOTICS ANONYMOUS  
12 MEETINGS Within 15 days of the effective date of this Order, Respondent shall commence  
13 attending Alcoholics Anonymous/Narcotics Anonymous meetings at least three times per week.  
14 Respondent shall obtain a sponsor within 15 days of his first Alcoholics Anonymous/Narcotics  
15 Anonymous meeting and shall work and complete the 12 steps of recovery for the first year of  
16 probation. He shall submit signed and dated documentation confirming attendance at least three  
17 times per week at Alcoholics Anonymous/Narcotics Anonymous meetings to his probation  
18 monitor with his quarterly report. He shall further ensure his sponsor submits a letter of  
19 representation as a sponsor within 30 days of his first meeting and provide a written status report  
20 of the progress on the 12 steps on a quarterly basis.

21 5. RESTRICTION OF PRACTICE Respondent may not be employed or  
22 function as a member of a respiratory care management or supervisory staff during the entire  
23 length of probation. This includes lead functions.

24 Respondent is prohibited from working in home care unless it is under direct  
25 supervision and personal observation.

26 6. OBEY ALL LAWS Respondent shall obey all laws, whether federal,  
27 state, or local. Respondent shall also obey all regulations governing the practice of respiratory  
28 care in California.

Respondent shall notify the Board in writing within 14 days of any incident resulting in his arrest, or charges filed against, or a citation issued against Respondent.

7. QUARTERLY REPORTS Respondent shall file quarterly reports of compliance under penalty of perjury, on forms to be provided to the probation monitor assigned by the Board. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Quarterly report forms will be provided by the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation and the entire length of probation as follows:

For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup> through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>, reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

Failure to submit complete and timely reports shall constitute a violation of probation.

8. PROBATION MONITORING PROGRAM Respondent shall comply with requirements of the Board appointed probation monitoring program, and shall, upon reasonable request, report to or appear at a local venue as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Annual Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's Probation Program at any time he has a question or concern regarding his terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall

1 constitute a violation of probation and will result in the filing of an accusation and/or a petition to  
2 revoke probation against Respondent's respiratory care practitioner license.

3           9.     PROBATION MONITORING COSTS All costs incurred for probation  
4 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may  
5 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms  
6 and conditions may also cause this amount to be increased.

7           All payments for costs are to be sent directly to the Respiratory Care Board and  
8 must be received by the date(s) specified. (Periods of tolling will not toll the probation  
9 monitoring costs incurred.)

10           If Respondent is unable to submit costs for any month, he shall be required instead  
11 to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able  
12 to submit the costs including payment amount(s). Supporting documentation and evidence of  
13 why the Respondent is unable to make such payment(s) must accompany this submission.

14           Respondent understands that failure to submit costs timely is a violation of  
15 probation and submission of evidence demonstrating financial hardship does not preclude the  
16 Board from pursuing further disciplinary action. However, Respondent understands providing  
17 evidence and supporting documentation of financial hardship may delay further disciplinary  
18 action.

19           In addition to any other disciplinary action taken by the Board, an unrestricted  
20 license will not be issued at the end of the probationary period and the respiratory care  
21 practitioner license will not be renewed, until such time all probation monitoring costs have been  
22 paid.

23           The filing of bankruptcy by Respondent shall not relieve the Respondent of his  
24 responsibility to reimburse the Board for costs incurred.

25           10.    EMPLOYMENT REQUIREMENT Respondent shall be employed a  
26 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his  
27 probation period.

28           Respondent may substitute successful completion of a minimum of thirty (30)

1 additional continuing education hours, beyond that which is required for license renewal, for  
2 each 8 months of employment required. Respondent shall submit proof to the Board of  
3 successful completion of all continuing education requirements. Respondent is responsible for  
4 paying all costs associated with fulfilling this term and condition of probation.

5           11.     NOTICE TO EMPLOYER Respondent shall be required to inform his  
6 employer, and each subsequent employer during the probation period, of the discipline imposed  
7 by this decision by providing his supervisor and director and all subsequent supervisors and  
8 directors with a copy of the decision and order, and the Accusation in this matter prior to the  
9 beginning of or returning to employment or within 14 days from each change in a supervisor or  
10 director.

11                 If Respondent is employed by or through a registry, Respondent shall make each  
12 hospital or establishment to which he is sent aware of the discipline imposed by this decision by  
13 providing his direct supervisor and administrator at each hospital or establishment with a copy of  
14 this decision, and the Accusation in this matter prior to the beginning of employment. This must  
15 be done each time there is a change in supervisors or administrators.

16                 The employer will then inform the Board, in writing, that he is aware of the  
17 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting  
18 the Board to obtain additional forms, if needed. All reports completed by the employer must be  
19 submitted from the employer directly to the Board.

20                 Respondent shall execute a release authorizing the Board or any of its  
21 representatives to review and obtain copies of all employment records and discuss and inquire of  
22 the probationary status with any of Respondent's supervisors or directors.

23           12.     CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall  
24 notify the Board, and appointed probation monitor, in writing, of any and all changes of  
25 employment, location, and address within 14 days of such change. This includes, but is not  
26 limited to, applying for employment, termination or resignation from employment, change in  
27 employment status, change in supervisors, administrators or directors.

28                 Respondent shall also notify his probation monitor AND the Board IN WRITING



1 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for  
2 mailing purposes, however the Respondent must also provide his physical residence address as  
3 well.

4 13. COST RECOVERY Respondent shall pay to the Board a sum not to  
5 exceed the costs of the investigation and prosecution of this case. That sum shall be \$1,543.00  
6 and shall be paid in full directly to the Board, in equal quarterly payments, within one (1) year  
7 from the effective date of this decision. Cost recovery will not be tolled.

8 If Respondent is unable to submit costs timely, he shall be required instead to  
9 submit an explanation of why he is unable to submit these costs in part or in entirety, and the  
10 date(s) he will be able to submit the costs including payment amount(s). Supporting  
11 documentation and evidence of why the Respondent is unable to make such payment(s) must  
12 accompany this submission.

13 Respondent understands that failure to submit costs timely is a violation of  
14 probation, and submission of evidence demonstrating financial hardship does not preclude the  
15 Board from pursuing further disciplinary action. However, Respondent understands that  
16 providing evidence and supporting documentation of financial hardship may delay further  
17 disciplinary action.

18 Consideration to financial hardship will not be given should Respondent violate  
19 this term and condition, unless an unexpected AND unavoidable hardship is established from the  
20 date of this order to the date payment(s) is due.

21 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his  
22 responsibility to reimburse the Board for these costs.

23 14. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods  
24 of residency or practice outside California, whether the periods of residency or practice are  
25 temporary or permanent, will toll the probation period, but will not toll the cost recovery  
26 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
27 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the  
28 Board, in writing, within 14 days, upon his return to California and prior to the commencement

1 of any employment where representation as a respiratory care practitioner is/was provided.

2 15. VALID LICENSE STATUS Respondent shall maintain a current, active  
3 and valid license for the length of the probation period. Failure to pay all fees and meet  
4 Continuing Education requirements prior to his license expiration date shall constitute a violation  
5 of probation.

6 16. VIOLATION OF PROBATION If Respondent violates any term of the  
7 probation in any respect, the Board, after giving Respondent notice and the opportunity to be  
8 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
9 revoke probation is filed against Respondent during probation, the Board shall have continuing  
10 jurisdiction and the period of probation shall be extended until the matter is final. No petition for  
11 modification of penalty shall be considered while there is an accusation or petition to revoke  
12 probation or other penalty pending against Respondent.

13 17. COMPLETION OF PROBATION Upon successful completion of  
14 probation, Respondent's license shall be fully restored.

15  
16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order, and  
18 have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the  
19 effect it will have on my Respiratory Care Practitioner License. I enter into this Stipulated  
20 Settlement voluntarily, knowingly, and intelligently, and agree to be bound by the Disciplinary  
21 Order and Decision of the Respiratory Care Board.

22 DATED: November 22, 2006

23  
24 Original signed by:  
25 DARREN G. DYE  
26 Respondent  
27  
28

I have read and fully discussed with Respondent Darren G. Dye the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: November 28, 2006

Original signed by:  
FREDRICK M. RAY  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: December 19, 2006

BILL LOCKYER, Attorney General  
of the State of California

Original signed by:  
ELAINE GYURKO  
Senior Legal Analyst

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2017

DARREN G. DYE  
4847 Harrison Street  
Chino, California 91710

Respiratory Care Practitioner License No. 23663

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 5, 2007.

It is so ORDERED January 24, 2007.

Original signed by:  
\_\_\_\_\_  
LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA